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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,750	05/21/2001	John Skalen	P/1629-43	6152

2352 7590 06/28/2002

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NEW YORK, NY 100368403

EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

- Call from Httw Sept 19 interview
212-596-0598

- called 9/16 - VOILEMAIL
- called 9/17 - VOILEMAIL (2 times)

Office Action Summary

Application No.

09/787,750

Applicant(s)

SKALEN

Examiner

M. Chambers

Art Unit

3711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Jun 4, 2002

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 6-11 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 6-11 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) ☐ Other: _____

This Office Action is a response to the Application filed on:

Number	Name	Date	Claims	Independent Claims
09787750	SKALEN	3/21/01	5	1

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6,7,11 are rejected under 35 U.S.C. 103(a) as obvious over the British reference (Deane) in view of Windall. Deane discloses the elements of claim 1. However it does not clearly disclose the use of indicia placed on the tether. Windall discloses the use of indicia on the tether (15,17,18). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the indicia of Windall with the apparatus of Deane in order to reduce the manufacturing cost and reduce the number of sub-components of the apparatus. Note that the phrases in the claim directed to the intended manner of use of the device cannot be used to distinguish over prior art disclosing the structure.

As to claim 7: No criticality is seen for the dimensions cited. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected an appropriate length and size of the tether to insure the apparatus would operate in an appropriate manner.

As to claim 11: Deane discloses controlling the return of the ball (3:1-7).

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art cited in view of Official Notice. Official notice is given that attachment of balls and tethers are well known in the art. One of ordinary skill in the art would have selected an appropriate attachment means

from one of many equivalent attachment means.

Response to Arguments

Applicant's arguments filed 6/4/02 have been fully considered but they are not persuasive. . The applicant claims that the ring and indicia are novel and non obvious to one of ordinary skill in the art. The Deane reference notes that the device to connect the inelastic and elastic cords is a metal loop . Therefore the novelty claimed is not understood. Also the claim that the indicia for club sizes is novel is not found in the drawings and claim language. It would appear that this limitation would lend it self to a method of use.

The dimensions claimed by the applicant are not novel. One of ordinary skill in the art would have selected an appropriate size to permit the device to function. The Deane reference notes that "effective length of the inelastic material" in section 2:90-95. This would include the dimensions noted by the applicant.

Various ball attachment means are well known in the art. On one hand it is argued that these devices are well known in the art and therefore drawings are not required and on the other it is argued that these attachment devices are novel. The examiner is in agreement that these attachment devices are well known in the art and it would have been obvious to select an appropriate attachment means to insure the safety of the device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and relied upon.

Patent Number	Date	Patent Name	Notes
3122369	12/25/64	Windall	1449 doc
GB401955	11/23/33	Deane	1449 doc

NOTE:

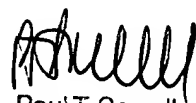
1) If Applicant believes they have not received all of the cited references noted in this office action, they should call the examiner listed below within one (1) week of receiving this notice in order to obtain duplicate material and reset the time frame of this office action. If the applicant fails to request additional materials in a timely manner, the requested materials will be resent, but the applicant will have to obtain a time extension in the normal fashion.

2) Unless claims are noted on the office action summary page and this document as allowable, all claims are rejected. If a typing error creates a some confusion, the examiner apologizes for the error and requests the examiner be contacted to resolve the question.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is (703) 306-5516. The examiner can normally be reached on Mon.-Fri. from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302--After final fax number-- (703) 872-9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1078.


Paul T. Sewell
Supervisory Patent Examiner
Group 3700